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May 22, 1997

BY HAND

Nancy E. Bell  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re: MUR 4594 - China Airlines, Ltd.

Dear Ms. Bell:

We are in receipt of your letter of May 14, 1997, posing additional informal inquiries to our client, China Airlines, Ltd. ("CAL"). As we discussed, CAL respectfully declines to answer additional questions. The inquiries are pointless. The statute of limitations has run and there is in any event no legal or factual basis for the Commission to find a violation of the Federal Election Campaign Act (please see our February 14, 1997 response to the Commission's "reason to believe" letter).

The applicable statute of limitations bars as untimely claims arising more than five years before the FEC brings an action for civil penalty. FEC v. Williams, 104 F.3d 237 (9th Cir. 1996). The alleged violation in this matter is based on a 16-year-old rental agreement. Although your office may take the position that the statute of limitations does not bar investigations (see MUR 3204R, General Counsel's Report, April 17, 1997 at 5-6), neither the Commission nor any court has adopted that position. Further, the Commission itself has recognized the difficulties in obtaining reliable evidence where significant time has passed. Id. at 6 (facts at issue arose 9 years earlier). In short, even if the statute of limitations has not run, prosecution of this case would be highly impractical.

In addition, dismissal is warranted for other reasons. As we showed in our response to the "reason to believe" letter, there is no apparent nexus between the rental of the space to Mr. Fasi and any election, and there is no reliable evidence that there was any underpayment of rent for the space in question.

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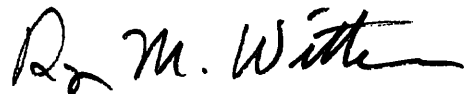
Furthermore, we question why from a policy perspective the Commission would devote its scarce resources to investigating a 16-year-old matter involving rental of commercially undesirable space to a state official for uses apparently unrelated to an election. This inquiry has no connection with any federal election and is of trivial importance at best. Your office's reasoning in the Montana Republican State Central Committee et al. matter (MUR 3204R) is instructive:

The diversion of the agency resources that would be required to investigate this case adequately . . . would detract from the Commission's ability to deal with more current and pressing matters, a result that would be contrary to the public interest in the effective administration of the Act.

Id. at 7. That reasoning applies a fortiori here. Further pursuit of this matter, which is neither current nor pressing, would be a poor use of Commission resources indeed.

For all the reasons stated above and in our earlier correspondence, we ask again that the Commission close the file and take no further action in this matter.

Sincerely,



Roger M. Witten  
Jeffrey N. Shane  
Margaret L. Ackerley

Counsel for Respondent,  
China Airlines, Ltd.

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